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DOCKET NO. 35728

**APPLICATION OF WORLDCELL
INTERCONNECT INC. FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
AND ELIGIBLE
TELECOMMUNICATIONS PROVIDER**

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**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**ORDER NO.18
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
ELIGIBLE TELECOMMUNICATIONS PROVIDER**

Procedural History

On May 29, 2008, Worldcall Interconnect Inc. (Worldcall or the Company) filed a combined application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418, as well as designation as an eligible telecommunications provider (ETP) pursuant to PURA¹ § 56.023 and P.U.C. SUBST. R. 26.417. Worldcall is a facilities-based provider of commercial mobile radio service (CMRS) as licensed by the Federal Communications Commission (FCC) and provides CMRS through its own facilities. Worldcall seeks ETC and ETP designation within certain non-rural telephone company wire centers of Verizon Southwest (Verizon) contained in Attachment C of its third amended application.

On June 2, 2008, the Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and published notice in the *Texas Register*. Notice was published in the *Texas Register* on June 13, 2008. The Applicant did not provide a copy of the application to the Office of Public Utility Counsel at the time of filing. Pursuant to P.U.C. SUBST. R. 26.417(f)(2)(A)(i) and 26.418(g)(2)(A)(i), the effective date shall be no earlier than 30 days after the filing date of the application or 30 days after notice is completed, whichever is later. Therefore, the earliest effective date for this proceeding was July 14, 2008. On July 8, 2008, the procedural schedule

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001–66.016 (Vernon 2007 & Supp. 2008) (PURA).

was suspended to allow sufficient time for consideration of motions to intervene and to allow responses from parties. On July 23, 2008, Order No. 4 established a new effective date of September 2, 2008.

The following parties were granted intervention in this proceeding: United Telephone Company of Texas, Inc. d/b/a Embarq (Embarq) and Central Telephone Company of Texas, Inc. d/b/a Embarq (collectively Embarq); Brazoria Telephone Company (Brazoria), Consolidated Communications of Fort Bend Company (Consolidated Fort Bend), Guadalupe Valley Telephone Cooperative, Inc. (GVTC), Colorado Valley Telephone Cooperative, Inc. (Colorado Valley), CenturyTel of San Marcos, Inc. (CenturyTel), Industry Telephone Company (Industry), Ganado Telephone Company, Inc. (Ganado), and La Ward Telephone Exchange, Inc. (La Ward), Southwestern Bell Telephone Company d/b/a AT&T Texas (AT&T Texas), and Windstream Sugar Land, Inc. (Sugar Land). Subsequently, all intervenors except Verizon withdrew from this proceeding.

On July 31, 2008, Order No. 6 deemed the application deficient and suspended the procedural schedule pending the filing of a sufficient application. Worldcall appealed Order No. 6. On August 6, 2008, Order No. 7 on reconsideration extended the time to file additional information to allow Worldcall to confer with Commission Staff regarding any additional information required to address any deficiencies.

On August 20, 2008, Commission Staff was directed to file comments on the sufficiency of Worldcall's amended application and provide a schedule for processing. On August 27, 2008, Commission Staff found Worldcall's third amended application sufficient for review.

On September 10, 2008, Commission Staff filed a request for referral of this matter to the State Office of Administrative Hearings (SOAH) to determine whether the application complies with the requirements of PURA and the Commission's Substantive Rules. At the time of referral, Verizon remained the sole intervenor. Worldcall opposed the request for referral and requested abatement of the proceeding. The proceeding was abated on October 1, 2008, and referred to SOAH on October 27, 2008.

On December 12, 2008, Worldcall filed a joint motion for an order returning matter to the Public Utility Commission. Worldcall and Commission Staff agreed that all legal and factual disputes had been resolved. On December 22, 2008, the docket was dismissed at SOAH and returned to the Commission for processing. Commission Staff also filed its final recommendation requesting administrative approval of the application for ETC and ETP status for Worldcall based on the following:

Designation as Eligible Telecommunications Carrier

To qualify for ETC status, a carrier must meet four conditions:²

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services (requisite services),³ using its own facilities or a combination of its own facilities and the resale of another carrier's services:⁴
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its functional equivalent;
 - (e) access to emergency services, including such services as 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance; and
 - (i) toll blocking for qualifying low income customers; and
 - (j) toll control for qualifying low income customers.
3. The carrier must advertise the availability of and charges for the requisite services in a media of general distribution.⁵
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁶

² 47 C.F.R. § 54.201(b)-(d).

³ 47 C.F.R. § 54.101.

⁴ 47 C.F.R. § 54.201.

⁵ 47 C.F.R. § 54.201.

In addition, the FCC established the following additional requirements for the designation of ETC:⁷

1. Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify it will:
 - (a) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and
 - (b) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (i) modifying or replacing the requesting customer's equipment;
 - (ii) deploying a roof-mounted antenna or other equipment;
 - (iii) adjusting the nearest cell tower;
 - (iv) adjusting network or customer facilities;
 - (v) reselling services from another carrier's facilities to provide service; or
 - (vi) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.
2. Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.
3. Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to re-route traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

⁶ 47 C.F.R. § 54.405.

⁷ 47 C.F.R. § 54.202.

4. Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Associations' Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.
5. Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent ILEC in the service area for which it seeks designation.
6. Certify that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

Worldcall meets all of the above criteria. Worldcall has not requested any waivers of FCC requirements. Worldcall commits to offer toll limitation services in accordance with 47 C.F.R. §§ 54.400 and 54.401.

Verizon serves the wire centers for which Worldcall requests FUSF support. Verizon is a non-rural carrier.

Commission Staff's analysis of the third amended application and supplemental filing concludes that Worldcall meets all requirements established by the FCC for designation as an ETC.

Designation as Eligible Telecommunications Provider

Pursuant to P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETP status to meet the definition of a local exchange carrier as defined in P.U.C. SUBST. R. 26.5(119). Worldcall meets this definition.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to FTA § 214(e). ETC and ETP designations are being handled concurrently in this docket.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the Texas High-Cost Universal Support Provider or small and rural ILEC service area for which the carriers seek ETP status. The designated services requested for ETP status are:

1. flat rate, single party service, including primary directory listings;
2. tone dialing;
3. access to operator services;
4. access to directory assistance services;
5. access to 911 service when provided by local authority;
6. dual party relay service;
7. ability to report service problems seven days a week;
8. availability of annual local directory;
9. access to toll services; and
10. Lifeline and Link Up services.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) also requires the applicant to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer. Worldcall states that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers in its exchanges.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires that applicants show they offer the designated services through a means other than total service resale. Worldcall offers services through its own CMRS facilities. If necessary, Worldcall will also use resale in limited circumstances to provide service in areas beyond its facility deployment.

P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to show that they have offered continuous service that meets the quality of service standards in P.U.C. SUBST. R. 26.52 - 26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. Worldcall meets these requirements. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. Worldcall meets this requirement.

P.U.C. SUBST. R. 26.417(d)(1) provides that in areas not served by small or rural ILECs, as defined in P.U.C. SUBST. R. 26.404(b), the Commission may designate more than one ETP in an ETP service area so long as each additional provider meets the requirements of P.U.C. SUBST R. 26.417(c).

Worldcall has also committed to offering the required designated services at a rate not to exceed 150% of the ILEC's tariffed rate in the same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Commission Staff analysis of the application concludes that Worldcall meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

Ordering Paragraph

In accordance with Commission Staff's recommendation and for the reasons stated therein, pursuant to FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, Worldcall's application for ETC designation is **APPROVED**, as amended. Pursuant to PURA § 56.023 and P.U.C. SUBST. R. 26.417, Worldcall's application for ETP designation, as amended, is **APPROVED**.

SIGNED AT AUSTIN, TEXAS on the 9th day of January 2009.

PUBLIC UTILITY COMMISSION OF TEXAS



ANDREW KANG
ADMINISTRATIVE LAW JUDGE